

Doc. No. 5331
ADOPTED

M E M O R A N D U M

August 15, 1990

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: HOMER RUSSELL, ASSISTANT DIRECTOR FOR
URBAN DESIGN AND DEVELOPMENT AND
SCOTT FOWLER, PLANNING ASSISTANT

SUBJECT: REQUEST FOR APPROVAL OF THE FOURTH AMENDMENT TO THE
REPORT AND DECISION ON POST OFFICE SQUARE CHAPTER 121A
PROJECT

SUMMARY: In accordance with the Chapter 121A Report and Decision for the Post Office Square Park project, the Authority is requested to approve a Fourth Amendment to the Report and Decision on the Application of Subsidiaries of Friends of Post Office Square, Inc.

On May 10, 1984 the Authority issued a Report and Decision pursuant to the provisions of M.G.L. c. 121A and St. 1960, C. 652, as amended, consenting to the formation of Post Office Square Redevelopment Corporation as an urban redevelopment corporation for the purpose of carrying out a project in Boston. The project consists of the acquisition of a parcel of land in the financial district containing approximately 1.56 acres and bounded by Congress, Franklin, Pearl and Milk Streets, the demolition of the public parking garage located thereon, and the construction of a new underground parking garage and grade level park. The Report and Decision was approved by the Mayor on October 4, 1984, was filed with the Clerk of the City on January 17, 1986, and was amended by a First Amendment to Report and Decision dated April 3, 1986, which was approved by the Mayor on June 5, 1986 and filed with the City Clerk on June 6, 1986. The First Amendment provided for a development agreement among the City, the Authority, and the Post Office Square Redevelopment Corporation. The Report and Decision was subject to a Second Amendment dated October 22, 1986, which was approved by the Mayor and filed with the City Clerk on November 7, 1986. The Second Amendment enabled the Corporation to carry out the terms of a settlement with the lessee of the project area. The Report and Decision was subject to a Third Amendment dated June 9, 1988, which was approved by the Mayor and filed with the City Clerk on July 7, 1988. The Third Amendment addressed minor design changes, a revised development schedule, and the financing plan.

Following an extensive design review process, the design of both the park and garage portions of the project have been approved by

the Authority. The action requested by the Fourth Amendment is necessary to implement the approved designs.

The purpose of this memorandum is to seek the Authority's approval of a Fourth Amendment to the Chapter 121A Report and Decision.

Fourth Amendment to Chapter 121A Report and Decision

The Fourth Amendment addresses deviations from the Zoning Code, in implementation of the Authority's prior approvals and in furtherance of the goals of the project. The proposed Fourth Amendment would allow an outdoor cafe and newspaper stand to operate out of the approved kiosk within the Post Office Square Park. The amendment would also approve signage, and allow the operation of a car wash and repair for parking garage patrons at the bottom level of the garage.

The Authority has remained involved in the review of the Post Office Square Park and Garage as plans were developed for the park and the garage. Following an extensive design review process, the design of both the park and garage portions of the project have been approved by the Authority. The action requested by the Fourth Amendment is necessary to implement the approved designs. Construction of the garage is nearly complete and the garage should be open to the public in October of this year. The park will be completed next spring.

We recommend the adoption of the Fourth Amendment to the Chapter 121A Report and Decision, which is attached as Exhibit 1 to this memorandum.

An appropriate vote follows:

VOTED: That the document presented at this meeting entitled "Fourth Amendment to the Report and Decision on the Application of Subsidiaries of Friends of Post Office Square, Inc. for the Authorization and Approval of a Project under Massachusetts General Laws Chapter 121A, as Amended, and Chapter 652 of the Acts of 1960, as Amended, and for Consent to the Formation pursuant to said Chapter 121A of an Urban Redevelopment Corporation Under the Name Post Office Square Redevelopment Corporation for the Purpose of Undertaking and Carrying Out the Project under said Chapter 121A," does not propose a fundamental change in the Project, that any non-compliance of same with the Authority's Rules and Regulations is immaterial and therefore waived and that the same be and hereby is approved and adopted.

BOSTON REDEVELOPMENT AUTHORITY

FOURTH AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION OF SUBSIDIARIES OF FRIENDS OF POST OFFICE SQUARE, INC., FOR THE AUTHORIZATION AND APPROVAL OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS CHAPTER 121A, AS AMENDED, AND CHAPTER 652 OF THE ACTS OF 1960, AS AMENDED, AND FOR CONSENT TO THE FORMATION PURSUANT TO SAID CHAPTER 121A OF AN URBAN REDEVELOPMENT CORPORATION UNDER THE NAME POST OFFICE SQUARE REDEVELOPMENT CORPORATION FOR THE PURPOSE OF UNDERTAKING AND CARRYING OUT THE PROJECT UNDER SAID CHAPTER 121A

A. Prior Proceedings. Reference is made to the "Report and Decision on the Application of Subsidiaries of Friends of Post Office Square, Inc., for the Authorization and Approval of a Project under Massachusetts General Laws Chapter 121A, as Amended, and Chapter 652 of the Acts of 1960, and for Consent to the Formation pursuant to said Chapter 121A of an Urban Redevelopment Corporation for the purpose of Undertaking and Carrying Out the Project" adopted by the Boston Redevelopment Authority (the "Authority") at a meeting held May 10, 1984. Said report and decision was amended by a First Amendment to Report and Decision, dated April 3, 1986, by a Second Amendment to Report and Decision, dated October 22, 1986, and by a Third Amendment to Report and Decision, dated June 9, 1988. The report and decision, as amended by said first, second and third amendments, is hereinafter referred to as the "Report and Decision". Capitalized terms not defined herein shall have the meanings set forth in the Report and Decision.

B. Amendment to Application. By a Fourth Amendment to the Application, dated as of August 7, 1990 (the "Fourth Amendment"), the applicant has sought authorization and approval from the Authority for certain amendments to the Report and Decision. A copy of the Fourth Amendment is attached hereto as Exhibit A.

C. Authority Action. At a meeting of the Authority on August 15, 1990, in the offices of the Authority, at the New City Hall, Room 921, Boston, Massachusetts 02201, the Authority considered the Fourth Amendment. Clarence J. Jones, Chairman of the Authority, and Francis O'Brien, Consuelo Gonzales-Thornell, and James K. Flaherty, members of the Authority, were present at the meeting. In acting upon the requests for approval of the Fourth Amendment and for an appropriate amendment to the Report and Decision, the Authority has considered the Fourth Amendment and all documents and exhibits filed therewith or referred to therein, and the records of the Authority with respect to the Project made prior to the Fourth Amendment.

The Report and Decision is hereby amended to the extent necessary to reflect the Fourth Amendment to the Application,

which is hereby approved. More particularly, the Authority hereby acts as follows:

1. The Authority hereby determines that action requested in the Fourth Amendment is consistent with the Authority's prior approvals for the Project, and is necessary to properly carry out the Authority's objectives for the Project. The Authority further determines that the Fourth Amendment does not constitute a fundamental change, and that any noncompliance of the same with the Authority's Rules and Regulations is immaterial and therefore waived.

2. The Authority hereby determines that, in view of the Authority's review and approval of plans for the Project pursuant to Chapter 121A and the Development Agreement, the Project may deviate from the following sections of the Boston Zoning Code for the following purposes without substantially derogating from the intent and purposes of the Zoning Code:

(a) Section 8-7, Use Items 36A and 37 of the Zoning Code to allow the sale of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take out;

(b) Section 8-7, Use Items 34, 35 and 50 of the Zoning Code to allow the sale of newspapers, flowers, food and drink, and other sundries and general merchandise out of doors on the premises;

(c) Section 8-7, Use Item 60 of the Zoning Code to allow the operation of car wash and repair garage facilities in the garage portion of the Project. The applicant currently intends to operate car wash and minor repair facilities at the bottom level of the garage for use by patrons;

(d) Sections 11-2(e) and 11-4 of the Zoning Code to allow free standing illuminated signs at the garage entrances, and at the intersection of Congress Street and Milk Street, indicating the location of entrances to the garage. Each such sign shall have no more than two faces, each of which shall not exceed thirty square feet in area; and contain a blue rectangle with a white letter "P" in sans serif gothic type face; the letter "P" may be less than fifty percent of the area of that blue rectangle. The final design of each such sign shall be as substantially shown in Exhibit A attached hereto or as approved by the staff of the Authority from time to time; and

(e) Section 11-2(c) of the Zoning Code to allow one or more illuminated signs within but visible from outside the restaurant premises. The final design of each such sign shall be approved by staff of the Authority in accordance with its design review procedures.

D. Effect on Environment. The Authority hereby finds that its approval of the Fourth Amendment will have no impact on the environment.

Except to the extent inconsistent herewith, all findings, determination, approvals and consents as set forth in the Report and Decision are hereby ratified and confirmed.

FOURTH AMENDMENT TO APPLICATION FOR APPROVAL TO CARRY OUT A PROJECT IN BOSTON, MASSACHUSETTS UNDER MASS. G.L. c. 121A, AS AMENDED, AND STAT. 1960, C. 652, AND FOR CONSENT TO THE FORMATION OF POST OFFICE SQUARE REDEVELOPMENT CORPORATION

The undersigned (the "Applicant") hereby amends its Application dated November 14, 1983, as previously amended by a First Amendment to Application dated December 23, 1985, a Second Amendment to Application dated October 17, 1986, and a Third Amendment to Application dated May 20, 1988 (collectively, the "Application") to the Boston Redevelopment Authority (the "Authority") pursuant to the provisions of Mass. G.L. c. 121A, as amended ("Chapter 121A"), the provisions of Stat. 1960, c. 652 and the rules and regulations of the Authority, as provided below. The subject of the Application is the Post Office Square Redevelopment Project (the "Project"), which was approved by the Authority in its report and decision on the Application dated May 10, 1984, as amended by a First Amendment to the Report and Decision dated April 3, 1986, a Second Amendment to the Report and Decision dated October 22, 1986 and a Third Amendment to the Report and Decision dated June 9, 1988. The report and decision, as amended by said first, second and third amendments, is hereinafter referred to as the "Report and Decision". Capitalized terms not defined herein shall have the meanings set out in the Application.

The Applicant hereby requests that, in view of the Authority's review and approval of plans for the Project pursuant to Chapter 121A and the Development Agreement, the Authority grant permission for the Project to deviate from the following sections of the Boston Zoning Code for the following purposes:

1. Section 8-7, Use Items 36A and 37 of the Zoning Code to allow the sale of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take out;
2. Section 8-7, Use Items 34, 35 and 50 of the Zoning Code to allow the sale of newspapers, flowers, food and drink, and other sundries and general merchandise out of doors on the premises;
3. Section 8-7, Use Item 60 of the Zoning Code to allow the operation of car wash and repair garage facilities in the garage portion of the Project. The Applicant currently intends to operate car wash and minor repair facilities at the bottom level of the garage for use by patrons;

4. Sections 11-2(e) and 11-4 of the Zoning Code to allow free standing illuminated signs at the garage entrances, and at the intersection of Congress Street and Milk Street, indicating the location of entrances to the garage. Each such sign shall have no more than two faces, each of which shall not exceed thirty square feet in area; and contain a blue rectangle with a white letter "P" in sans serif gothic type face; the letter "P" may be less than fifty percent of the area of that blue rectangle. The final design of each such sign shall be as substantially shown in Exhibit A attached hereto or as approved by the staff of the Authority from time to time; and

5. Section 11-2(c) of the Zoning Code to allow one or more illuminated signs within but visible from outside the restaurant premises. The final design of each such sign shall be approved by staff of the Authority in accordance with its design review procedures.

The Applicant hereby requests permission for the Project to deviate from the abovementioned provisions of the Zoning Code on the grounds that such permission may be granted without substantially derogating from the intent and purposes of the Zoning Code.

EXECUTED as of this 10th day of August, 1990

FRIENDS OF POST OFFICE SQUARE, INC.

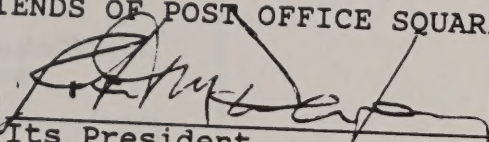
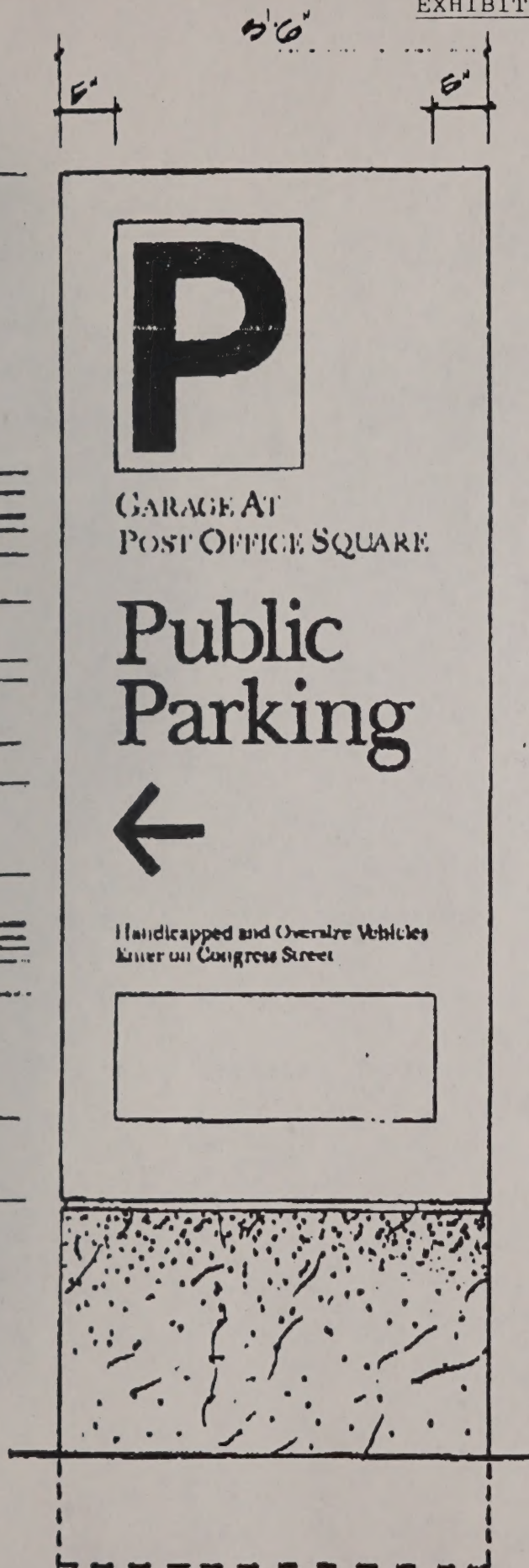
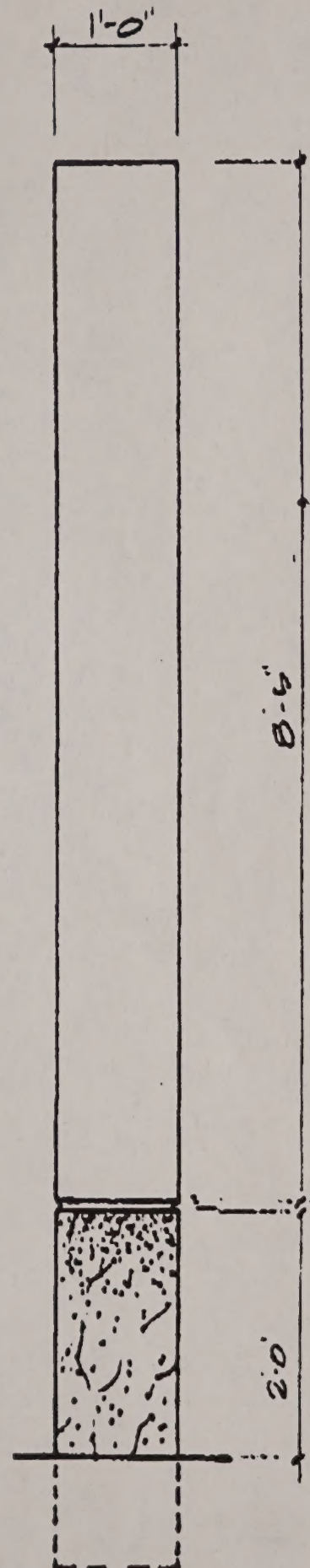
By: 
Its President

EXHIBIT A



MONOLITH



SIDE ELEVATION